

No. 11571

United States
Circuit Court of Appeals
For the Ninth Circuit.

PHILIP B. FLEMING, Administrator,
Office of Temporary Controls,
Appellant,
vs.

EARL CHIN GOON, HARRY CHIN GOON,
KAMERIOSHIM MAYEDA, HARRY MAY-
EDA, individually and doing business as SING
HOP CO., a partnership, and
F. W. RUPPERT,
Appellees.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Northern District of California,
Southern Division

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

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In the District Court of the United States for the
Northern District of California, Southern
Division

No. 24130-R

CHESTER BOWLES, Administrator, Office of
Price Administration,

Plaintiff,

vs.

EARL GOON, HARRY GOON, KAMERIOSHIM
MAYEDA, HARRY MAYEDA, individually
and doing business as SING HOP CO., a part-
nership, and F. W. RUPPERT,

Defendants.

COMPLAINT FOR INJUNCTION AND TREBLE DAMAGES

Count One

1. In the judgment of the Administrator, the defendants have engaged in acts and practices which constitute a violation of Section 4(a) of the Emergency Price Control Act of 1942, as amended (Pub. Law 421, 77th Cong., 2d Sess., C. 26, 56 Stat., 32), hereinafter called "the Act"; in that defendants have violated provisions of Maximum Price Regulation No. 165, as revised and amended, effective in accordance with the provisions of the Act; and therefore, pursuant to Section 205(a) of the Act, the Price Administrator brings this action to enforce compliance of Section 4(a) of said Act and the Regulation.

2. Jurisdiction of this action is conferred upon this Court by Section 205(c) of the Act. [1*]

3. At all times mentioned there has been in effect, pursuant to the Act, Maximum Price Regulation No. 165, as revised and amended, establishing maximum prices on various services including services of packing, drying and dehydrating fruits, including apples.

4. Defendants, Earl Goon, Harry Goon, Kameri-oshim Mayeda, and Harry Mayeda, are partners doing business under the firm name and style of Sing Hop Company, a partnership in the City of Watsonville, County of Santa Cruz, State of California, and have been and now are engaged in the business of operating a dehydrating plant and performing, furnishing, selling and supplying services of dehydrating of various fruits, including apples, within the provisions of said Maximum Price Regulation No. 165, as revised and amended.

5. That since August 19, 1942 and up to the date hereof, defendants have violated said Regulation in that they have performed, furnished, sold and supplied services of dehydrating of certain fruits including apples, which services are subject to said Regulation, at prices in excess of the maximum prices permitted by said Maximum Price Regulation No. 165, as revised and amended.

6. That from and including September 10, 1942, defendants have failed and neglected to prepare and file with their appropriate War Price and Rationing Board a complete, correct and adequate

* Page numbering appearing at foot of page of original certified Transcript of Record.

statement of their maximum prices, rates and pricing methods for services supplied by defendants, as required by the provisions of Maximum Price Regulation No. 165, as revised and amended.

Count Two

1. Plaintiff hereby realleges paragraphs 1, 3 and 4 of Count One and the same are herewith incorporated by reference and made a part hereof as though they were fully set forth herein. [2]

2. Jurisdiction of this Count is conferred upon this Court by Section 205 (c) and (e) of said Act.

3. None of the said sales and deliveries referred to in this said Count were made for use and consumption other than in the course of trade or business of the buyer.

4. Within one year last past, defendants doing business as Sing Hop Company, in Watsonville, California, performed, furnished, sold and supplied services of dehydrating of apples, within the provisions of Maximum Price Regulation 165, as revised and amended, and within the provisions of Order No. G-4 of Maximum Price Regulation 165, as amended, at prices in excess of the maximum prices established therefore, by said Maximum Price Regulation 165, as revised and amended, and said Order G-4. The amount by which the prices received by the defendants exceeded the maximum prices provided by said Regulation and said Order equals \$18,391.69.

5. Three times the aggregate amount by which the prices at which defendants sold the services referred to in paragraphs 3 and 4 of Count One of this Complaint exceed the maximum prices established by Maximum Price Regulation 165, as revised and amended, and Order G-4, as aforesaid, equals \$55,175.07.

Wherefore, the Administrator demands:

1. A Permanent Injunction enjoining the defendants, their agents, servants, employees and attorneys and all persons in active concert or participation with them, jointly or severally from:
 - a. Directly or indirectly performing, furnishing, selling and supplying services of dehydrating of fruits at prices in excess of those established by Maximum Price Regulation 165, as revised and amended, and Order No. G-4 thereunder, or otherwise violating or attempting or agreeing to do anything in violation of any Regulation or [3] Order adopted pursuant to said Act, establishing maximum prices for dehydrating services.
2. A Permanent Injunction requiring defendants to prepare and file with their appropriate War Price and Rationing Board, a complete, correct and adequate statement of their maximum prices, rates and pricing methods for dehydrating services supplied by defendants, as required by the provisions of Maximum Price Regulation 165, as revised and amended.

3. A Judgment on behalf of the United States against the defendants in the sum of \$55,175.00.
4. Such other, further and different relief as to the Court may seem just and proper in the premises.

Dated: This 20th day of December, 1944.

/s/ GEORGE A. FARADAY,
/s/ W. H. BRUNNER,
/s/ BETSY FITZGERALD RAHN.

[Endorsed]: Filed Dec. 20, 1944. [4]

[Title of District Court and Cause.]

ANSWER OF DEFENDANTS HARRY CHIN
GOON (herein sued as Harry Goon) and F. W.
RUPPERT

Come now the above named defendants, Harry Chin Goon (herein sued as Harry Goon) and F. W. Ruppert, and answering the complaint on file herein admit, deny and allege as follows:

As to Count One of said complaint:

1. These defendants do not have sufficient knowledge, information or belief to enable them to answer the allegations contained in paragraph "1" of said Count, and therefore and upon that ground deny generally and specifically the allegations contained in said paragraph "1."
2. Admit the allegations contained in paragraph "2" and the paragraph numbered "3" of said Count One.

3. As to paragraph "4" of said Count One, said defendants admit that "defendants Earl Chin Goon (herein sued [5] as Earl Goon), Harry Chin Goon (herein sued as Harry Goon), Kam-erioshim Mayeda and Harry Mayeda are partners doing business under the firm name and style of Sing Hop Company, a partnership, in the City of Watsonville, County of Santa Cruz, State of California, and have been and now are engaged in the business of operating a dehydrating plant," but deny all other allegations contained in said paragraph "4."
4. Deny generally and specifically all allegations contained in the paragraph numbered "5" of said Count One.
5. Deny generally and specifically all of the allegations contained in paragraph "6" of said Count One.

As to Count Two of said complaint:

1. Defendants here reallege and repeat all allegations, denials and admissions contained in their foregoing answer to paragraphs "1," "3" and "4" of said Count One, and said allegations, admissions and denials are herewith incorporated by reference and made part hereof as though they were fully set forth herein.
2. Admit the allegations contained in paragraphs "2" and "3" of said Count Two.
3. Deny generally and specifically each and all of the allegations contained in paragraph "4" of said Count Two.

4. Deny generally and specifically each and all of the allegations contained in paragraph "5" of said Count Two.

Special Defense

As a further, second and special defense to each of the counts set forth in the complaint on file herein, said defendants allege that the transactions referred to in each of said counts and each thereof occurred more than one year prior to December 20th, 1944, and that the same are and each thereof is barred by the statute of limitations. [6]

Wherefore, said defendants pray that plaintiff take nothing by his said complaint and that the said defendants have judgment against plaintiff for their costs of suit herein incurred.

GEO. M. NAUS and
WYCKOFF, GARDNER,
PARKER & BOYLE,
Attorneys for said Defendants

Receipt of a copy of the foregoing Answer, this 16th day of March, 1945, is hereby acknowledged.

BETSY FITZGERALD RAHN,
Attorney for Plaintiff.

[Endorsed]: Filed March 16, 1945. [7]

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above entitled cause having come on regularly for trial in the above named court on April 16, 17, 18 and 19, 1946; and plaintiff having then appeared by Morris D. Feldman, Esquire, his attorney, and defendants Earl Chin Goon, Harry Chin Goon and F. W. Ruppert having then appeared by Messrs. George M. Naus, Philip T. Boyle and Wyckoff, Gardner, Parker & Boyle, their attorneys; and defendants Kamerioshim Mayeda and Harry Mayeda having then appeared by Messrs. R. H. Hudson and Sans, Hudson & Perry, their attorneys; and the cause having proceeded to a trial of the issues raised by plaintiff's complaint and the separate answers of defendants thereto; and evidence, [8] oral and documentary, having been received, and the cause having been argued and submitted for decision, the court now makes findings of facts and conclusions of law as follows:

FINDINGS OF FACT

I.

In the judgment of plaintiff as Administrator of the office of Price Administration, the defendants have engaged in acts and practices which constitute a violation of Section 4(a) of the Emergency Price Control Act of 1942, as amended (50 U.S.C. Appendix, §§ 902-945, Pub. Law 421, 77th Cong. 2d Sess., 56 Stat. 23), and plaintiff therefore brings this

action for an injunction and treble damages on behalf of the United States pursuant to Sections 205(a) and 205(e) of said Price Control Act.

II.

Jurisdiction of this action is conferred upon this court by Sections 205(c) and 205(e) of said Price Control Act.

III.

Prior to the happening of the transactions herein-after mentioned, plaintiff as Administrator of the Office of Price Administration had promulgated pursuant to said Price Control Act, and at all times herein mentioned there was in effect, Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant to Maximum Price Regulation No. 165, establishing maximum prices on various services, including the services of dehydrating or drying certain fruits, including apples. [9]

IV.

At all times herein mentioned defendants Earl Chin Goon, Harry Chin Goon, Kamerioshim Mayeda and Harry Mayeda were co-partners doing business under the fictitious name of Sing Hop Co., and were engaged in the business of operating in the City of Watsonville, County of Santa Cruz, State of California, a dehydrating plant, and were there selling and supplying the services of dehydrating various fruits, including apples, covered by the provisions of Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

At all times herein mentioned defendant F. W. Ruppert was employed as a salesman by the other defendants who were doing business under the fictitious name of Sing Hop Co.

V.

Since August 19, 1942, and prior to the commencement of this action the defendants have violated the provisions of Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto, in that during said period the defendants have sold and supplied the services of dehydrating apples at prices in excess of the maximum prices permitted by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

VI.

In the fall of 1943 P. M. Resetar delivered to the dehydrating plant of defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., the 1943 crop of apples grown by said P. M. Resetar, aggregating approximately 801 tons (green), and requested said defendants to dehydrate [10] said crop of apples. Said P. E. Resetar then and there agreed to pay said defendants for their services in drying said apples the maximum price permitted for such services for the 1943 crop pursuant to Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

Thereafter defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., did receive

and dehydrate the 1943 apple crop of said P. M. Resetar, and derived therefrom 100.125 tons of dry apples.

Thereafter and on or about April 5, 1944, defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., demanded and received from said P. M. Resetar a total price or consideration of \$18,397.69 for the services of said defendants in drying or dehydrating said 1943 apple crop.

The maximum price established by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto for the services of dehydrating or drying apples for the 1943 season by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., was the sum of \$114.23 per ton of dry apples, or the total sum of \$11,437.28 for the 100.125 dry tons of said P. M. Resetar's apples so dehydrated.

The total price or consideration so demanded and received by said defendants from said P. M. Resetar for the drying of said apples, to wit, \$18,397.69, exceeded by \$6,960.41 the total maximum price of \$11,437.28 established therefor by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

The overcharge of \$6,960.41 herein found to have been exacted by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., was willful and is the [11] result of failure on the part of said defendants to take practicable precautions against the occurrence of said violation.

VII

In the fall of 1943 L. G. Bachan delivered to the dehydrating plant of defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., the 1943 crop of apples grown by L. G. Bachan, aggregating approximately 83 tons (green), and requested said defendants to dehydrate said crop of apples. Said L. G. Bachan then and there agreed to pay said defendants for their services in drying said apples the maximum price permitted for such services for the 1943 crop pursuant to Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

Thereafter defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., did receive and dehydrate the 1943 apple crop of said L. G. Bachan, and derived therefrom 10.337 tons of dry apples.

Thereafter and on or about March 15, 1944, defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., demanded and received from said L. G. Bachan a total price or consideration of \$1,899.42 for the services of said defendants in drying or dehydrating said 1943 apple crop.

The maximum price established by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto for the services of dehydrating or drying apples for the 1943 season by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., was the sum of \$114.23 per ton of dry apples, or the total

sum of \$1,180.79 for the 10.337 dry tons of said L. G. Bachan's apples so dehydrated.

The total price or consideration so demanded and received by said defendants from said L. G. Bachan for the drying of said apples, to wit, \$1,899.42, exceeded by \$718.63 the total maximum price of \$1,180.79 established therefor by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

The overcharge of \$718.63 herein found to have been exacted by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., was willful and is the result of failure on the part of said defendants to take practicable precautions against the occurrence of said violation.

VIII.

In the fall of 1943 M. Zupan delivered to the dehydrating plant of defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., the 1943 crop of apples grown by M. Zupan, aggregating approximately 69½ tons (green), and requested said defendants to dehydrate said crop of apples. Said M. Zupan then and there agreed to pay said defendants for their services in drying said apples the maximum price permitted for such services for the 1943 crop pursuant to Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

Thereafter defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., did receive and dehydrate the 1943 apple crop of said M. Zupan,

and derived therefrom 8.697 tons of dry apples.

Thereafter and on or about March 15, 1944, defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., demanded and received from said M. Zupan a total [13] price or consideration of \$1,598.51 for the services of said defendants in drying or dehydrating said 1943 apple crop.

The maximum price established by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto for the services of dehydrating or drying apples for the 1943 season by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., was the sum of \$114.23 per ton of dry apples, or the total sum of \$993.46 for the 8.697 dry tons of said M. Zupan's apples so dehydrated.

The total price or consideration so demanded and received by said defendants from said M. Zupan for the drying of said apples, to wit, \$1,598.51, exceeded by \$605.05 the total maximum price of \$993.46 established therefor by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

The overcharge of \$605.05 herein found to have been exacted by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., was willful and is the result of failure on the part of said defendants to take practicable precautions against the occurrence of said violation.

IX.

None of the services hereinabove mentioned were

sold, or delivered, or performed, or purchased, for use or consumption other than in the course of trade or business.

X.

Except to the extent hereinabove expressly found to be true, the court finds that the remaining allegations contained in paragraph 6 of Count One of plaintiff's complaint and in paragraphs 4 and 5 of Count Two of plaintiff's [14] complaint are not established by a preponderance of the evidence, and therefore finds such remaining allegations not true.

CONCLUSIONS OF LAW

I.

All transactions referred to in the foregoing findings were, at all times mentioned, subject to the provisions of Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto, since the services sold, or delivered, or performed constituted a "commodity" within the meaning of Section 302(c) of the Emergency Price Control Act of 1942 as amended (50 U.S.C. Appendix, § 942(c)), and none of the services involved were sold, or delivered, or performed, or purchased, for use or consumption other than in the course of trade or business.

II.

Each overcharge hereinabove found constitutes a violation of Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto.

III.

Each violation of Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto, hereinabove found to have been committed by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., was willful and is the result of failure on the part of said defendants to take practicable precautions against the occurrence of said violation.

IV.

By reason of the overcharges aggregating \$8,284.09, hereinabove found to have been exacted by defendants Goon and Mayeda, co-partners doing business as Sing Hop Co., [16] plaintiff as Administrator of the Office of Price Administration is entitled to judgment on behalf of the United States against defendants Earl Chin Goon, Harry Chin Goon, Kamerioshim Mayeda and Harry Mayeda for double the amount of such overcharges, or the total sum of \$16,568.18.

V.

Defendant F. W. Ruppert acted as salesman for defendants Goon and Mayeda, co-partners doing business as Sing Hop Co. Defendants Goon and Mayeda were the "sellers" or the "persons selling a commodity" within the meaning of Section 205(e) of the Emergency Price Control Act of 1942 as amended (50 U.S.C. Appendix, § 925(e)). Only the seller is liable for damages pursuant to the provisions of Section 205(e). The Administrator may proceed against salesmen or agents of the seller by

way of injunction under Section 205(a) or by criminal prosecution under Section 205(b). Accordingly, judgment should be entered dismissing this action for damages as against defendant F. W. Ruppert.

VI.

By reason of the violations hereinabove found, plaintiff is entitled to permanent injunction enjoining and restraining defendants Earl Chin Goon, Harry Chin Goon, Kamerioshim Mayeda, Harry Mayeda and F. W. Ruppert, and each of them, and the agents, servants, employees and attorneys of each of them, and all persons in active concert or participation with all or any of them, from directly or indirectly in any way or manner performing, or furnishing, or selling, or delivering, or supplying the services of dehydrating of fruits at any time or for any person at prices in excess of those established by Maximum Price Regulation [17] No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto, and from otherwise violating or attempting or agreeing to do anything in violation of said Regulation or Order, or any amendment thereof or supplement thereto, establishing maximum prices for the services of dehydrating various fruits.

Let judgment be entered accordingly.

October 30, 1946.

WM. C. MATHES,

Judge.

[Endorsed]: Filed Nov. 4, 1946. [18]

In the District Court of the United States, Northern
District of California, Southern Division

No. 24130-WM

PAUL A. PORTER, Administrator, OFFICE OF
PRICE ADMINISTRATOR,

Plaintiff,

vs.

EARL CHIN GOON, HARRY CHIN GOON,
KAMERIOSHIM MAYEDA, HARRY MAY-
EDA, individually and doing business as SING
HOP CO., a partnership, and
F. W. RUPPERT,

Defendants.

JUDGMENT

The Court having made and filed findings of fact and conclusions of law herein, and having ordered entry of judgment in accordance therewith;

It Is now Ordered, Adjudged and Decreed that a writ of injunction issue enjoining and restraining the defendants Earl Chin Goon, Harry Chin Goon, Kamerioshim Mayeda, Harry Mayeda and F. W. Ruppert, and each of them, and the agents, servants, employees and attorneys of each of them, and all persons in active concert or participation with all or any of them, from directly or indirectly in any way or manner performing, or furnishing, or selling, or delivering, or supplying the services of dehydrating of [19] fruits at any time or for any

person at prices in excess of those established by Maximum Price Regulation No. 165, as revised and amended, and Order No. G-4 issued pursuant thereto, and from otherwise violating or attempting or agreeing to do anything in violation of said Regulation or Order, or any amendment thereof or supplement thereto, establishing maximum prices for the services of dehydrating various fruits.

It Is Further Ordered, Adjudged and Decreed that the foregoing injunction shall terminate upon the expiration or earlier termination of all regulations promulgated by the Administrator of the Office of Price Administration establishing maximum prices for the service or commodity referred to therein.

It Is Further Ordered, Adjudged and Decreed that plaintiff, Paul A. Porter as Administrator of the Office of Price Administration, on behalf of the United States have and recover of and from defendants Earl Chin Goon, Harry Chin Goon, Kamerio-shim Mayeda, Harry Mayeda, and each of them, the sum of \$16,568.18, and the plaintiff's costs in this action incurred, as taxed by the Clerk, in the sum of \$

It Is Further Ordered, Adjudged and Decreed that this action be and is hereby dismissed in so far as damages are sought against F. W. Ruppert.

October 30, 1946.

WM. C. MATHES,
Judge.

[Endorsed]: Filed and Entered Nov. 4, 1946.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that Philip B. Fleming, Administrator, Office of Temporary Controls, plaintiff above named, appeals to the Circuit Court of Appeals for the Ninth Circuit from the final judgment entered in this action on November 4, 1946, dismissing said action against the defendant, F. W. Ruppert, and from so much of the judgment as denies recovery of statutory damages in excess of \$16,568.18 of plaintiff's claim.

Dated at San Francisco, California, January 28, 1947.

AUSTIN CLAPP,

WILLIAM B. WETHERALL,

CECIL F. POOLE,

By /s/ CECIL F. POOLE,

Attorneys for Plaintiff.

[Endorsed]: Filed Jan. 28, 1947. [22]

[Title of District Court and Cause.]

STATEMENT OF POINTS ON APPEAL

The following is a statement of the points upon which plaintiff intends to rely on this appeal:

1. The Court below erred in holding that defendant F. W. Ruppert, acting as a salesman and agent for his co-defendant, was not a "seller" in the meaning of Section 205(e) of the Emergency Price Control Act, as amended.
2. The Court below erred in dismissing the action for damages as against the defendant F. W. Ruppert.

Dated February 19, 1947.

AUSTIN CLAPP,
WILLIAM B. WETHERALL,
CECIL F. POOLE,

By /s/ WILLIAM B. WETHERALL,
Attorneys for Plaintiff.

[Endorsed]: Filed Feb. 20, 1947. [23]

[Title of District Court and Cause.]

DESIGNATION OF RECORD ON APPEAL

The plaintiff Philip B. Fleming hereby designates the following portion of the record to be transmitted to the Circuit Court of Appeals for the Ninth Circuit upon the appeal herein:

1. Complaint.

2. Answer of defendants Harry Chin Goon and F. W. Ruppert.
3. Findings of Fact and Conclusions of Law.
4. Judgment.
5. Notice of Appeal.
6. Statement of Points to be Relied Upon on Appeal.
7. This Designation of Record.

Dated February 19, 1947.

AUSTIN CLAPP,
WILLIAM B. WETHERALL,
CECIL F. POOLE,

By /s/ WILLIAM B. WETHERALL,
Attorneys for Plaintiff.

[Endorsed]: Filed Feb. 20, 1947. [24]

[Title of District Court and Cause.]

DESIGNATION OF ADDITIONAL PORTIONS
OF RECORD

The undersigned defendants designate the following additional portions of the record to be contained in the record on the appeal taken by the plaintiff:

1. All docket entries.
2. This Designation.

GEORGE M. NAUS,
WYCKOFF, GARDNER,
PARKER & BOYLE,
Attorneys for defendants
Goon & Ruppert.

Receipt of a copy of the foregoing Designation is hereby acknowledged, this 21st day of February, 1947.

WILLIAM B. WETHERALL,
Attorney for Plaintiff.

[Endorsed]: Filed Feb. 25, 1947. [25]

DOCKET ENTRIES

1944

Dec. 20—Filed complt iss sum

1945

Jan. 23—Filed summons on ret-Ex

Feb. 6—Filed or. ex. time to plead

9—Filed Motion for Bill of Particulars with
notice of hrg.

19—Ord mo for bill of parts Granted, pltff al-
lowed 10 days to file bill

20—Filed sums ret unex

Mar. 9—Filed pltff's bill of parts

16—Filed ans of H. G. Goon & F. W. Ruppert

29—Filed ans of K. & H. Mayeda

1946

Jan. 14—Ord con Feb 25 prelim

Feb. 25—Ord con Mar 4

Mar. 4—Ord con Mar 11 to be set fur ord alias sum
issue for deft Earl Goon

5—Filed or to issue alias sum

11—Ord trial set for Apr 16

Filed praecipe iss subpoenas

Filed praecipe iss subpoena duces tecum

12—Filed praecipe iss alias sum

1946

- Mar. 20—Filed no mo sub party plttf
25—Filed ans of Earl Chin Goon
Ord Paul A. Porter substd for Bowles
Filed ord etc
- Apr. 16—Trial without jury, evid intro, con Apr 17
17—Ord trial resumed, evid intro, con Apr 18
18—Ord trial resumed, evid intro, con Apr 19
19—Ord trial resumed, briefed 20-20-10 time
to file briefs to beging when trans is
filed
- June 13—Filed 1 vol Reporter's Transcript
24—Filed 1 vol Reporter's Transcript
- July 11—Filed plttf's brief
- Aug. 13—Filed defts brief
- Nov. 4—Filed findings of fact & conc of law
Filed & ent judgt for plttf \$16,586.18 &
costs dismissed as to F. W. Ruppert
closed
Mailed notice [27]
- Dec. 21—Filed mo for subst of party plttf
30—Ord mo to subst party plttf granted
Filed ord subst party plttf

1947

- Jan. 28—Filed notice of appeal mailed notice
- Feb. 20—Filed statement of pts on appeal
Filed designation of rec on appeal
Filed aff't of serv by mail
24—Filed designation of addtl pors of record
- Mar. 7—Filed ord ex time to docket [28]

District Court of the United States
Northern District of California

CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 28 pages, numbered from 1 to 28, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of Philip B. Fleming, Administrator, Office of Temporary Controls, Plaintiff, vs. Earl Chin Goon, et al., Defendants, No. 24130-R, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of \$9.90 and that the said amount has been charged against the United States.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 20th day of March, A. D. 1947.

[Seal]

C. W. CALBREATH,
Clerk,

/s/ M. E. VAN BUREN,
Deputy Clerk. [29]

[Endorsed]: No. 11571. United States Circuit Court of Appeals for the Ninth Circuit. Philip B. Fleming, Administrator, Office of Temporary Controls, Appellant, vs. Earl Chin Goon, Harry Chin Goon, Kamerioshim Mayeda, Harry Mayeda, Individually and doing business as Sing Hop Co., a partnership, and F. W. Ruppert, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed March 24, 1947.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

